

REMARKS

The Amendment, filed in response to the Office Action mailed November 13, 2008, is believed to fully address all and every issue raised in the Action. Favorable reconsideration of the application is respectfully requested.

Claims Disposition and Amendment

Claims 7 and 12-29 are all the claims pending in the application.

Upon entry of the amendment, which is respectively requested, claims 7, 28 and 29 will be amended. Amended claim 7 is supported by the disclosure of, for example the paragraph bridging pages 3 and 4. Claims 28 and 29 are amended to improve wordings. No new matter is introduced.

Withdrawn Rejections

Applicant thanks the Examiner for withdrawing the previous rejection under 35 U.S.C. § 103(a) over US patent 5,294,444 in view of US patent 6,355,232 to Kaneko ("Kaneko").

Response to the Rejection under 35 U.S.C. § 112

In the Action, claims 7 and 15 are rejected under 35 U.S.C. § 112, as being indefinite, because the limitations "R₃ and R₄" in formula III of claim 7 and line 5 of claim 15 lack antecedent basis.

In response, claim 7 is amended to correct the typographical error as discussed above, rendering the rejection moot. Claim 15 refers to claim 7, and thus the amendment to claim 7 cures the rejection of claim 15.

Accordingly, withdrawal of the rejection is respectfully requested.

Response to the Rejection under 35 U.S.C. § 103

In the Action, claims 7 and 12-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,355,232 to Kaneko (“Kaneko”) and EP 092852 (“EP 852”)¹ in view of US 5,294,444 to Nakamura (“Nakamura”), or over Nakamura in view of Kaneko and EP 852.

Applicant respectfully traverses.

Kaneko teaches a lipid composition which is to be blended into a final product. The composition of Kaneko fails to teach all and every element of the currently presented claim 7. That is, Kaneko’s composition requires an element, a nonionic surface active agent, which is expressly excluded from the claimed subject matter, as defined in the currently presented claim 7. Furthermore, Kaneko fails to teach that the composition contains an aqueous medium, which corresponds to “water” recited in the claims of the instant application. In addition, Kaneko fails to teach that the composition is clear which is required in the present invention.

Applicant notes that Kaneko mentions at Examples 7-13 an aqueous medium (water). Examples 7-13 of Kaneko disclose consumer products which contain the ceramide composition, and the consumer product is distinguished from the claimed composition which itself contains water.

In sum, Applicant respectfully submits that Kaneko fails to teach that the claimed composition (which is suitable to use in cosmetics) does not contain a nonionic surface active agent, contains water, and is in clear composition form. It is the claimed composition which is a

¹ It is noted that the Action cites EP 0920852 and refers to it as “EP 252.” Applicant notes that the correct number of the reference is EP 0920852, which is referred to as EP 852 in this Reply.

first composition containing the ceramide defined in claim 1 in an amount of 1 to 5% by weight, that also contains water and is in clear formulation.

EP 852 does not cure the deficiencies of Kaneko. EP 852 also fails to teach a composition (which is suitable for use in cosmetics) that does not contain a nonionic surface active agent, contains water, and is in clear composition form.

Nakamura also fails to cure the deficiencies of Kaneko and EP 852. Rather, Nakamura teaches away from the claimed invention. It requires the composition comprise (A) an amphipathic lipid, (B) a nonionic surfactant, (C) an ionic surfactant, and (D) an aqueous medium.

None of the cited references teach or suggest that the ceramide composition, which is suitable for use in cosmetics, does not contain nonionic surface active agent and is in clear formulation.

Accordingly, it is believed that the rejections are not sustainable and withdrawal is respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number **202-775-7588**.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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